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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/818,289 | 03/27/2001 | Susumu Takagi | 188-86 | 9251 |

7590

10/03/2003

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,289

Applicant(s)

TAKAGI ET AL.

Examiner

Ula C Ruddock

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendment and accompanying remarks filed July 14, 2003.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Both claims 21 and 22 contain an error in line 3. As defined on page 5 of the present specification, the percent fabric surface occupancy of weft is defined as "warp width," not "weft width" as presently written. Correction is required.

Claim Rejections - 35 USC § 103

5. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi et al. (US 5,981,409) in view of Manabe et al. (US 4,816,124), as shown in Paper #5. Takagi et al. disclose fabric comprising a plain weave fabric of synthetic filaments wherein warp yarns occupy 60-90% of the fabric surface (abstract). The filament denier is not larger than 5 denier and the yarn

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denier is in the range of 50 to 450 denier (col 4, ln 53-57). It is preferable to use polyester yarns as both the warp and weft (col 4, ln 64-65). Takagi et al. disclose the claimed invention except for the teaching that the fabric is coated with metal and that the weft makes up 40-80% of the fabric.

Manabe et al. disclose metal-coated fibrous objects comprising yarns and fibers wherein the metal is selected from silver, and copper (abstract). It would have been obvious to one having ordinary skill in the art to have used Manabe's metal coating on the fabric of Takagi et al., motivated by the desire to create a fabric having increased waterproof properties.

It is the Examiner's position that optimizing the fabric surface occupancy of the weft as a constituent of the fabric is a result effective. For example, the more weft strands on the fabric surface directly affects the appearance of the fabric. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used 40-80% of the weft on the fabric surface, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized the weft fabric surface occupancy motivated by the desire to create a tighter fabric that is more aesthetically pleasing.

With regard to the newly added limitation of a metal coating directly onto the warps and wefts constituting the fabric, the claims as presently written (i.e. open language) do not preclude the use of additional coating layers.

With regard to the newly added limitations of a two-layer structure, although the fabric of Takagi comprises a three-layer structure, the claims as presently written (i.e. open language) do

not preclude the use of an additional layer. It is suggested that Applicant amend the claims to read on closed language (i.e. consisting of). Therefore, the claim limitations have been met.

Rejection is maintained.

Response to Arguments

6. Applicant's arguments filed July 14, 2003, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that Manabe's metal coating is first deposited upon a synthetic base coating. While this may be true, Applicant's arguments are not commensurate in scope with the claims as presently written. Applicant's claims are written in open language format and thus, they fail to preclude the use of other coating layers. Applicant further argues that the fabric of Takagi et al. is a three-layer structure. This argument is also not persuasive because Applicant's claims are written in open language, thus, they fail to preclude the use of additional layers.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C Ruddock whose telephone number is 703-305-0066. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

UCR *UCR*

Ula Ruddock